

Appln. No. 10/767,655  
Amendment  
Reply to Final Office Action dated July 13, 2005

Docket No. 304-821

### **REMARKS**

The foregoing amendments and these remarks are in response to the Office Action dated July 13, 2005. This amendment is filed with a request for a three month extension of time, a Request for Continued Examination and authorization to charge Deposit Account No. 50-0951 for the appropriate fees.

At the time of the Office Action, claims 3-5, 7-13, 15 and 16 were pending in the application. In the Office Action, claim 8 was rejected under 35 U.S.C. §112, second paragraph. Claims 3-5, 7-10, 12, 13, 15 and 16 were rejected under 35 U.S.C. §103(a). The rejections are discussed in more detail below.

#### **I. Rejections under 35 U.S.C. §112, second paragraph**

Claim 8 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, it was asserted that there is no proper antecedent basis for "the basic power". An appropriate amendment has been made herein to claim 8, and withdrawal of this rejection is respectfully requested.

#### **II. Rejections to the claims based upon Art**

Claims 3-5, 7-10, 13, 15 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,171,973 to Higgins ("Higgins '973"). Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Higgins '973 as applied to claims 3-5, 7-10, 13, 15 and 16, and further in view of U.S. Patent No. 6,081,149 to Higgins ("Higgins '149").

Applicant notes that in Higgins, according to figure 8 as well as the description in column 7, lines 28 to column 8, line 43, the heating area 24 is monitored by the limiter switch 44 except for in one situation. This is the switching state or position 9 from table 2 in column 7. However, this is the only state of the switches A-G leading to this electrical connection according to the position

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9 of table 2. In all the other positions all the heating areas, especially the heating element 24, are monitored by the limiter switch 44. This means that according to Higgins only at exactly one power level, which is the one according to the position 9, the heating element 24 is not monitored by the limiter switch 44. In all the other positions with all other power levels the heating element 24 is also monitored by the limiter switch 44.

In contrast, the device according to amended claim 15 has the advantage that the second area is never monitored by the excess temperature protection. As in Higgins, the different switching positions are provided for the user to control the heater power level with different levels according to column 7, lines 31 to 34.

A person of ordinary skill in the art could not derive from Higgins that it is possible or advisable to provide a heating area, which is always without monitoring by an excess temperature protection. In the device recited in claim 15, this enables the second heating area to be totally independent of the monitoring and as such does not ever influence the excess temperature protection. This allows for much more freedom in designing the heating device as well as defining heating levels and power levels of the heating device.

None of the other prior art documents give any teaching or suggestion to a person skilled in the art to provide a heating device with two heating areas, wherein one of the heating areas is always operated without monitoring by an excess temperature protection.

For the foregoing reasons, claim 15 is believed to relate to patentable subject matter, and to be in condition for allowance. The dependent claims are believed allowable because of their dependence upon an allowable base claim, and because of the further features recited. Reconsideration of the application is thus respectfully requested.

### III. Conclusion

Applicants have made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks,

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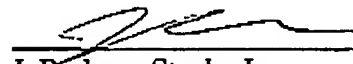
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Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

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